



# Department of Justice

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## **EVANSVILLE BUSINESS FACES NEARLY \$1 MILLION IN FINES AFTER ADMITTING MISUSE OF PESTICIDES**

*Hogsett announces guilty plea, says company must also take remedial action, apologize*

### **PRESS RELEASE**

EVANSVILLE – Joseph H. Hogsett, United States Attorney, announced today that North American Green, Inc., a business with operations in Evansville and Poseyville, has agreed to plead guilty to 150 counts of using a registered pesticide in violation of federal law. As part of their guilty plea, the company has been ordered to take remedial action and faces criminal fines of \$910,000.

“The size of this criminal fine underscores how seriously federal criminal justice treats the safety of Hoosiers, both in the workplace and in the products being produced,” Hogsett said. “By accepting responsibility and taking appropriate remedial action, I hope today’s guilty plea sends a message to others in Indiana’s business community that the U.S. Attorney’s Office has no tolerance for shortcuts.”

According to court documents, North American Green, Inc. (NAG) is an agricultural materials company with a business office located in Evansville and a manufacturing plant located in Poseyville. In the course of selling erosion control mats, multiple states and countries require the products to be fumigated so as to rid them of pests.

To accomplish this, NAG fumigates using a product called “Meth-O-Gas,” which is a registered pesticide that has been found to cause serious acute illness, lung or nervous system damage, or even death in those exposed to it in dangerous quantities. As such, the chemical is heavily regulated by both the federal Environmental Protection Agency (EPA), and the Indiana Department of Natural Resources (DNR), the latter of which certifies the fumigation process through local licensed applicators.

Between May 2006 and April 2007, North American Green has admitted to violating the Federal Insecticide Fungicide and Rodenticide Act by knowingly misusing Meth-O-Gas. This admission was preceded by federal authorities being provided information by a “whistle blower,” who was a licensed applicator employed by NAG at the time of the offenses, who told federal authorities that NAG had been signing his name on DNR certificates related to the fumigations without his knowledge or consent.

Subsequent investigation revealed a number of other instances in which Meth-O-Gas had been used in a manner inconsistent with its labeling. These include:

- Some plant personnel said that they never wore a full face mask or were supplied air during fumigations.
- Some stated that they never tested the air for excess chemicals before or after fumigation, as required by the chemical’s labeling. Others stated that NAG did not even possess a device that would have allowed them to do so.
- Some stated that they performed the fumigations alone, instead of with another person, as required by the chemical’s labeling.
- Some plant personnel stated that they performed fumigations in structures without heat and without the ability to measure the temperature in the structure, which is also required by the chemical’s labeling.

North American Green faces a number of other requirements as a result of their guilty plea. In addition to the criminal fine of \$910,000, the company has been ordered to: (1) institute an employee training program; (2) develop a corporate environmental compliance policy; (3) submit to an independent audit of their ongoing compliance with federal regulations; and (4) they must issue a public apology in a number of local newspapers. The company has also been placed on probation for a period of three years.

According to Assistant U.S. Attorneys Steven D. DeBrotta and Todd S. Shellenbarger, who prosecuted the case for the government, today’s entering of a guilty plea follows an extensive investigation by the United States Environmental Protection Agency.

“Today’s guilty plea shows how seriously EPA takes pesticide regulations,” said Randall Ashe, Special Agent in Charge of EPA’s criminal enforcement program in Indiana. “Pesticides like the kind used in the defendants’ products must be used safely and legally to protect the environment and the public. That is why accurate information is essential so that governments can assure compliance with environmental regulations. This guilty plea demonstrates that companies that misuse these products will be prosecuted.”

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